

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 111

HOUSE BILL 2185

AN ACT

AMENDING SECTIONS 8-804, 41-619.51, 41-1758, 41-1758.01 AND 41-1967, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 14, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1967.01; RELATING TO CHILD CARE HOME PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-804, Arizona Revised Statutes, is amended to
3 read:

4 8-804. Central registry; notification

5 A. The department of economic security shall maintain a central
6 registry of reports of child abuse and neglect that are substantiated and the
7 outcome of the investigation of these reports made under this article. The
8 department shall incorporate duplicate reports on the same incident in the
9 original report and shall not classify duplicate reports as new reports.

10 B. Information contained in the central registry shall be used by the
11 department only for the following purposes:

12 1. To conduct background checks as one factor to determine
13 qualifications for foster home licensing, adoptive parent certification,
14 child care home certification, REGISTRATION OF UNREGULATED CHILD CARE HOMES
15 WITH THE CHILD CARE RESOURCE AND REFERRAL SYSTEM, and home and community
16 based services certification for services to children.

17 2. To identify and review reports concerning individual children and
18 families, in order to facilitate the assessment of risk.

19 3. To determine the nature and scope of child abuse and neglect in
20 this state and to provide statewide statistical and demographic information
21 concerning trends in child abuse and neglect.

22 4. To allow comparisons of this state's statistical data with national
23 data.

24 5. To comply with section 8-804.01, subsection B.

25 C. If the department received a report before September 1, 1999 and
26 determined that the report was substantiated, the department shall maintain
27 the report in the central registry until eighteen years from the child
28 victim's date of birth.

29 D. If the department received a report on or after September 1, 1999
30 and determined that the report was substantiated, the department shall
31 maintain the report in the central registry for twenty-five years after the
32 date of the report.

33 E. The department shall annually purge reports and investigative
34 outcomes received pursuant to the time frames prescribed in subsections C and
35 D of this section.

36 F. Any person who was the subject of a child protective services
37 investigation may request confirmation that the department has purged
38 information about the person pursuant to subsection E of this section. On
39 receipt of this request the department shall provide the person with written
40 confirmation that the department has no record containing identifying
41 information about that person.

42 Sec. 2. Section 41-619.51, Arizona Revised Statutes, is amended to
43 read:

44 41-619.51. Definitions

45 In this article, unless the context otherwise requires:

1 1. "Agency" means the supreme court, the department of economic
2 security, the department of education, the department of health services or
3 the department of juvenile corrections.

4 2. "Board" means the board of fingerprinting.

5 3. "Facility" or "program" means state facilities or programs that
6 provide direct services to adults with developmental disabilities or to
7 juveniles.

8 4. "Good cause exception" means the issuance of a fingerprint
9 clearance card to an employee pursuant to section 41-619.55.

10 5. "Person" means a person who is required to be fingerprinted
11 pursuant to any of the following:

12 (a) Section 8-322.

13 (b) Section 15-512.

14 (c) Section 15-534.

15 (d) Section 15-1330.

16 (e) Section 36-425.03.

17 (f) Section 36-594.01.

18 (g) Section 36-882.

19 (h) Section 36-883.02.

20 (i) Section 36-897.01.

21 (j) Section 36-897.03.

22 (k) Section 36-3008.

23 (l) Section 41-1964.

24 (m) SECTION 41-1967.01.

25 ~~(m)~~ (n) Section 41-2814.

26 ~~(n)~~ (o) Section 46-141, subsection A.

27 ~~(o)~~ (p) Section 46-321.

28 Sec. 3. Section 41-1758, Arizona Revised Statutes, is amended to read:
29 41-1758. Definitions

30 In this article, unless the context otherwise requires:

31 1. "Agency" means the supreme court, the department of economic
32 security, the department of education, the department of health services or
33 the department of juvenile corrections.

34 2. "Division" means the fingerprinting division in the department of
35 public safety.

36 3. "Facility or program" means state facilities or programs that
37 provide direct services to adults with developmental disabilities or to
38 juveniles.

39 4. "Good cause exception" means the issuance of a fingerprint
40 clearance card to an employee pursuant to section 41-619.55.

41 5. "Person" means a person who is required to be fingerprinted
42 pursuant to any of the following:

43 (a) Section 8-322.

44 (b) Section 15-512.

45 (c) Section 15-534.

46 (d) Section 15-1330.

1 (e) Section 36-425.03.

2 (f) Section 36-594.01.

3 (g) Section 36-882.

4 (h) Section 36-883.02.

5 (i) Section 36-897.01.

6 (j) Section 36-897.03.

7 (k) Section 36-3008.

8 (l) Section 41-1964.

9 (m) SECTION 41-1967.01.

10 ~~(m)~~ (n) Section 41-2814.

11 ~~(n)~~ (o) Section 46-141, subsection A.

12 ~~(o)~~ (p) Section 46-321.

13 6. "Vulnerable adult" has the same meaning prescribed in section
14 13-3623.

15 Sec. 4. Section 41-1758.01, Arizona Revised Statutes, is amended to
16 read:

17 41-1758.01. Fingerprinting division; duties

18 The fingerprinting division is established in the department of public
19 safety and shall:

20 1. Conduct fingerprint background checks for persons and applicants
21 who are seeking employment with licensees, contract providers and state
22 agencies that require fingerprint background checks pursuant to sections
23 8-322, 15-534, 15-1330, 36-425.03, 36-594.01, 36-882, 36-883.02, 36-897.01,
24 36-897.03, 36-3008, 41-1964, 41-1967.01 and 41-2814, section 46-141,
25 subsection A and section 46-321.

26 2. Issue fingerprint clearance cards.

27 3. Inform in writing each person who submits fingerprints for a
28 fingerprint background check of the person's right to petition the board of
29 fingerprinting for a good cause exception pursuant to section 41-1758.03.

30 4. Administer and enforce this article.

31 Sec. 5. Section 41-1967, Arizona Revised Statutes, is amended to read:
32 41-1967. Child care resource and referral system

33 A. The department shall establish and maintain a statewide child care
34 resource and referral system, INCLUDING A CHILD CARE HOME PROVIDER REGISTRY,
35 through community-based organizations to:

36 1. Provide families with:

37 (a) Information on all types of child care.

38 (b) Referrals to child care providers and programs.

39 (c) Information about child care resources and services.

40 (d) Information about choosing child care.

41 (e) INFORMATION ABOUT REGISTERED CHILD CARE HOME PROVIDERS.

42 2. Assist child care providers and programs with:

43 (a) Information on training related to child care issues.

44 (b) Technical assistance that relates to initiating or providing child
45 care services.

46 (c) Parent referrals.

- 1 (d) BECOMING REGISTERED AS A CHILD CARE HOME PROVIDER.
- 2 3. Coordinate with the community to:
- 3 (a) Develop statistics of the demand for and supply of child care.
- 4 (b) Maintain ongoing relationships with all local groups interested
- 5 in child care.
- 6 B. The child care resource and referral system shall:
- 7 1. Identify all available child care providers and programs through
- 8 coordination with public and private agencies.
- 9 2. Collect in a uniform method provider information for the referral
- 10 ~~data base~~ DATABASE that includes:
- 11 (a) The type of program.
- 12 (b) The hours of service.
- 13 (c) The ages of children served.
- 14 (d) Fees for service.
- 15 (e) THE LICENSURE, CERTIFICATION AND REGISTRATION STATUS OF PROVIDERS.
- 16 ~~(e)~~ (f) Other significant provider and program information.
- 17 3. Establish and maintain a referral process that responds to parental
- 18 need for information. The child care resource and referral system shall make
- 19 referrals to child care providers and programs that:
- 20 (a) Promote parental choice and meet the needs of families.
- 21 (b) Are included in the resource and referral ~~data base~~ DATABASE.
- 22 4. Collect in a uniform method family information for the referral
- 23 ~~data base~~ DATABASE that includes the:
- 24 (a) Number of calls and contacts.
- 25 (b) Ages of children in need of care.
- 26 (c) Days and times of care requested.
- 27 (d) Type of care requested.
- 28 (e) Special needs and requests made by the family.
- 29 (f) Reason that the care is needed.
- 30 5. Provide outreach services that include:
- 31 (a) Efforts to reach parents and providers in local communities.
- 32 (b) Involvement in the local communities.
- 33 (c) Publication of services through all available media sources,
- 34 agencies and other appropriate channels.
- 35 (d) PUBLIC AWARENESS INFORMATION TO PARENTS AND PROVIDERS ABOUT THE
- 36 CHILD CARE HOME PROVIDER REGISTRY AND THE BENEFITS OF USING THE REGISTRY OR
- 37 BECOMING REGISTERED.
- 38 6. Provide technical assistance to existing and prospective child care
- 39 providers and programs that include:
- 40 (a) Information on all aspects of initiating new child care services
- 41 including child care regulations, zoning, program and budget development and
- 42 assistance in finding information from other sources.
- 43 (b) Educational information and resources that assist existing child
- 44 care providers and programs to better serve the children and parents in their
- 45 community.

1 (c) Local coordination of existing child care and child related
2 services.

3 7. ESTABLISH AND MAINTAIN A CHILD CARE HOME PROVIDER REGISTRY THAT
4 INCLUDES:

5 (a) CHILD CARE HOME PROVIDERS THAT ARE REGISTERED PURSUANT TO SECTION
6 41-1967.01.

7 (b) A COMPLAINT TRACKING SYSTEM THAT CONTAINS WRITTEN COMPLAINTS
8 CONCERNING PROVIDERS AND WRITTEN PROVIDER RESPONSES. THE COMPLAINTS AND
9 RESPONSES ARE AVAILABLE TO THE PUBLIC.

10 (c) A SYSTEM FOR NOTIFYING A PROVIDER THAT IS EXCLUDED OR REMOVED FROM
11 THE REGISTRY THAT THE PROVIDER MAY APPEAL DIRECTLY TO THE ENTITY MAKING THE
12 DETERMINATION RESULTING IN THE EXCLUSION OR REMOVAL.

13 (d) INFORMATION PROVIDED BY REGISTERED PROVIDERS RELATING TO THE
14 SERVICES PROVIDED AND CHILD CARE ENVIRONMENT.

15 C. The following child care providers are eligible to be considered
16 for inclusion in the child care resource and referral data-base DATABASE,
17 unless barred by other provisions of law:

18 1. Child care providers licensed, OR certified or approved by a
19 government agency which is authorized by law to license, certify or approve
20 child care providers.

21 2. ~~Child care providers not licensed, certified or approved by a~~
22 ~~government agency.~~ CHILD CARE HOME PROVIDERS THAT ARE REGISTERED PURSUANT
23 TO SECTION 41-1967.01. These providers shall submit and amend when necessary
24 sworn, written statements to the department or its designees, on forms
25 approved by the department, attesting that the provider is not subject to
26 exclusion or removal from the child care resource and referral data-base
27 DATABASE under any of the grounds specified in subsection E of this section.

28 D. Child care providers identified in subsection C, paragraph 1 of
29 this section may be excluded or removed from the child care resource and
30 referral data-base DATABASE whenever the provider's license, OR
31 certification or approval is revoked, terminated or suspended, or when a
32 child care facility is closed for cause.

33 ~~E. Child care providers identified in subsection C, paragraph 2 of~~
34 ~~this section may be excluded or removed from the child care resource and~~
35 ~~referral data base when:~~

36 1. ~~The provider is not qualified to furnish child care services~~
37 ~~without a license, certification or alternative state agency approval.~~

38 E. CHILD CARE HOME PROVIDERS IDENTIFIED IN SUBSECTION C, PARAGRAPH 2
39 OF THIS SECTION MAY BE EXCLUDED OR REMOVED FROM THE CHILD CARE HOME PROVIDER
40 REGISTRY AND THE CHILD CARE RESOURCE AND REFERRAL DATABASE IF:

41 1. THE PROVIDER FAILS TO OBTAIN A CLASS ONE OR CLASS TWO FINGERPRINT
42 CLEARANCE CARD OR THE PROVIDER'S CLASS TWO FINGERPRINT CLEARANCE CARD IS
43 REVOKED OR SUSPENDED.

44 2. The provider has been denied a license to operate a facility for
45 the care of children or had a license or certificate to operate such a
46 facility revoked OR HAS BEEN REMOVED FOR CAUSE FROM PARTICIPATION IN THE

1 CHILD AND ADULT FOOD PROGRAM in this state or in any other state or
2 jurisdiction.

3 3. The provider, the provider's employees or any person eighteen years
4 of age or older who resides in the provider's child care facility has been
5 convicted of or is awaiting trial on any of the criminal offenses listed in
6 section 41-1964, subsection B, paragraph 1 in this state or similar criminal
7 offenses in any other state or jurisdiction.

8 4. The provider, the provider's employees or any person who resides
9 in the provider's child care facility has been the subject of ~~a child abuse~~
10 ~~or neglect~~ AN investigation WHERE A REPORT OF CHILD ABUSE OR NEGLECT which:
11 (a) has been substantiated by a child protective services agency or
12 a law enforcement agency in this state or in any other state or jurisdiction.
13 (b) ~~Would disqualify the provider from being certified pursuant to~~
14 ~~section 46-807.~~

15 5. THE PROVIDER FAILS TO MAINTAIN CURRENT TRAINING AND CERTIFICATION
16 IN FIRST AID AND INFANT AND CHILD CARDIOPULMONARY RESUSCITATION.

17 6. THE PROVIDER FAILS TO ENCLOSE A POOL PURSUANT TO SECTION 36-1681,
18 SUBSECTIONS A, B AND C.

19 7. THE PROVIDER FAILS TO SEPARATELY STORE FIREARMS AND AMMUNITION
20 UNDER LOCK AND KEY OR COMBINATION LOCK.

21 F. ~~Nothing in This section is meant to~~ AND SECTION 41-1967.01 DO NOT
22 create an affirmative obligation on the part of any state agency or any child
23 care resource and referral agency to review, monitor or investigate child
24 care providers and programs.

25 G. Neither this state nor its officers or employees, acting within the
26 scope of their employment, ~~shall be~~ ARE liable for any damage or injury
27 caused by their conduct pursuant to this section OR SECTION 41-1967.01,
28 except for gross negligence or conduct intended to cause injury.

29 H. Neither a child care resource and referral agency nor its officers
30 and employees, acting within the scope of their employment, ~~shall be~~ ARE
31 liable for any damage or injury caused by their conduct pursuant to this
32 section OR SECTION 41-1967.01, except for gross negligence or conduct
33 intended to cause injury.

34 I. The department shall adopt rules which are consistent with the
35 terms of this section.

36 Sec. 6. Title 41, chapter 14, article 1, Arizona Revised Statutes, is
37 amended by adding section 41-1967.01, to read:

38 41-1967.01. Child care home provider; registration;
39 fingerprints; definition

40 A. A CHILD CARE HOME PROVIDER WHO RECEIVES COMPENSATION TO CARE FOR
41 FOUR OR FEWER CHILDREN AND WHO HAS NOT BEEN CERTIFIED BY THE DEPARTMENT OF
42 ECONOMIC SECURITY PURSUANT TO SECTION 46-807 OR LICENSED OR CERTIFIED BY THE
43 DEPARTMENT OF HEALTH SERVICES PURSUANT TO SECTION 36-883 OR 36-897.01 SHALL
44 REGISTER WITH THE DEPARTMENT OF ECONOMIC SECURITY IF THE CHILD CARE HOME
45 PROVIDER WISHES TO BE LISTED WITH THE CHILD CARE RESOURCE AND REFERRAL
46 SYSTEM.

1 B. EACH APPLICANT FOR REGISTRATION SHALL SUBMIT A FULL SET OF
2 FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF OBTAINING
3 A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND
4 PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS
5 FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

6 C. CHILD CARE PROVIDERS SHALL HAVE A VALID CLASS ONE OR CLASS TWO
7 FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO CHAPTER 12, ARTICLE 3.1 OF THIS
8 TITLE OR SHALL APPLY FOR A CLASS ONE OR CLASS TWO FINGERPRINT CLEARANCE CARD
9 BY THE DATE OF REGISTRATION WITH THE DEPARTMENT.

10 D. BY THE DATE OF REGISTRATION, CHILD CARE PROVIDERS SHALL CERTIFY ON
11 FORMS THAT ARE PROVIDED BY THE DEPARTMENT AND NOTARIZED WHETHER:

12 1. THEY ARE AWAITING TRIAL ON OR HAVE BEEN CONVICTED OF OR ADMITTED
13 COMMITTING ANY OF THE FOLLOWING CRIMINAL OFFENSES IN THIS STATE OR SIMILAR
14 OFFENSES IN ANOTHER STATE OR JURISDICTION:

- 15 (a) SEXUAL ABUSE OF A MINOR.
- 16 (b) INCEST.
- 17 (c) FIRST OR SECOND DEGREE MURDER.
- 18 (d) KIDNAPPING.
- 19 (e) ARSON.
- 20 (f) SEXUAL ASSAULT.
- 21 (g) SEXUAL EXPLOITATION OF A MINOR.
- 22 (h) FELONY OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
23 MINOR.
- 24 (i) COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 25 (j) FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
26 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
27 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.
- 28 (k) FELONY OFFENSES INVOLVING THE POSSESSION OR USE OF MARIJUANA,
29 DANGEROUS DRUGS OR NARCOTIC DRUGS.
- 30 (l) BURGLARY.
- 31 (m) AGGRAVATED OR ARMED ROBBERY.
- 32 (n) ROBBERY.
- 33 (o) A DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN SECTION
34 13-604.01.
- 35 (p) CHILD ABUSE.
- 36 (q) SEXUAL CONDUCT WITH A MINOR.
- 37 (r) MOLESTATION OF A CHILD.
- 38 (s) MANSLAUGHTER.
- 39 (t) ASSAULT OR AGGRAVATED ASSAULT.
- 40 (u) EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 41 (v) A VIOLATION OF SECTION 28-1381, 28-1382 OR 28-1383.
- 42 (w) OFFENSES INVOLVING DOMESTIC VIOLENCE.
- 43 2. THEY ARE PARENTS OR GUARDIANS OF A CHILD ADJUDICATED TO BE A
44 DEPENDENT CHILD AS DEFINED IN SECTION 8-201.
- 45 3. THEY HAVE BEEN DENIED A LICENSE TO OPERATE A CHILD CARE FACILITY
46 FOR CAUSE IN THIS STATE OR ANOTHER STATE OR HAD A LICENSE OR CERTIFICATE TO

1 OPERATE A CHILD CARE FACILITY REVOKED.

2 E. THE NOTARIZED FORMS ARE CONFIDENTIAL.

3 F. EACH APPLICANT FOR REGISTRATION SHALL NOT HAVE BEEN THE SUBJECT OF
4 AN INVESTIGATION WHERE A REPORT OF CHILD ABUSE OR NEGLECT HAS BEEN
5 SUBSTANTIATED.

6 G. EACH APPLICANT SHALL MAINTAIN CURRENT TRAINING AND CERTIFICATION
7 IN FIRST AID AND INFANT AND CHILD CARDIOPULMONARY RESUSCITATION.

8 H. THE APPLICANT SHALL ENCLOSE ANY POOL ON THE APPLICANT'S PREMISES
9 PURSUANT TO SECTION 36-1681, SUBSECTIONS A, B AND C.

10 I. THE APPLICANT SHALL SEPARATELY STORE FIREARMS AND AMMUNITION UNDER
11 LOCK AND KEY OR COMBINATION LOCK.

12 J. THE DEPARTMENT SHALL ADOPT RULES TO CARRY OUT THIS SECTION.

13 K. THE DIRECTOR SHALL CHARGE A FEE FOR PROCESSING THE FINGERPRINT
14 INFORMATION REQUIRED PURSUANT TO THIS SECTION.

15 L. ANY OBLIGATION OR LIABILITY UNDER THIS SECTION IS GOVERNED BY THE
16 PROVISIONS OF SECTION 41-1967, SUBSECTIONS F, G AND H.

17 M. FOR THE PURPOSES OF THIS SECTION, "CHILD CARE PROVIDER" MEANS A
18 REGISTERED CHILD CARE HOME PROVIDER PURSUANT TO SUBSECTION A OF THIS SECTION.

19 Sec. 7. Exemption from rule making

20 The department of economic security is exempt from the rule making
21 requirements of title 41, chapter 6, Arizona Revised Statutes, until July 1,
22 2002 to carry out the purposes of this act. At the time the department makes
23 a rule pursuant to this exemption, the department shall file a copy of the
24 rule with the secretary of state for publication pursuant to section 41-1012,
25 Arizona Revised Statutes.

26 Sec. 8. Use of monies

27 The department of economic security may use appropriated quality set
28 aside monies from the child care development block grant in fiscal years
29 2001-2002 and 2002-2003 as needed to implement the child care home provider
30 registry.

31 Sec. 9. Effective date

32 Sections 1 through 6 of this act are effective from and after March 31,
33 2002.


APPROVED BY THE GOVERNOR APRIL 11, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2001.

Passed the House February 19, 2001,

by the following vote: 40 Ayes,

18 Nays, 2 Not Voting

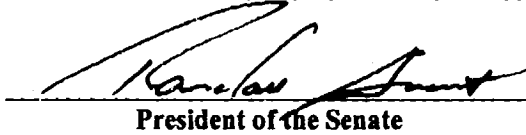

Speaker of the House

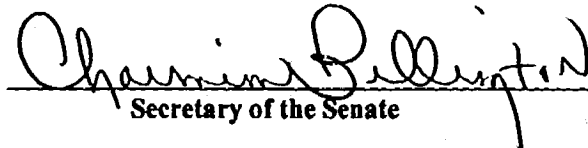

Chief Clerk of the House

Passed the Senate March 28, 2001,

by the following vote: 22 Ayes,

8 Nays, 0 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2185

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.


Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 5, 2001,

by the following vote: 41 Ayes,

13 Nays, 6 Not Voting



Speaker of the House

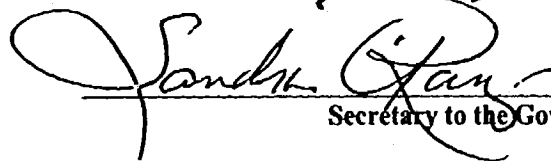

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of April, 2001,

at 9:32 o'clock A M.



Secretary to the Governor

Approved this 11 day of

April, 2001,

at 8:30 o'clock P M.



Governor of Arizona

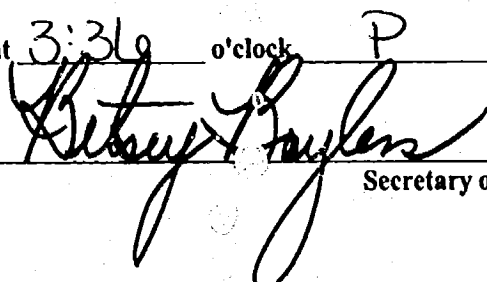
H.B. 2185

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12 day of April, 2001,

at 3:36 o'clock P M.



Secretary of State